

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY SOLIS,

Plaintiff,

- against -

666 FIFTH ASSOCIATES LLC,

Defendant.

Case No. 20-cv-05105 (AKH)

**NOTICE OF MOTION TO DISMISS
THE AMENDED COMPLAINT**

PLEASE TAKE NOTICE that upon the Declaration of Lisa M. Griffith, dated July 13, 2021, and the exhibits annexed thereto, the Memorandum of Law in Support of Defendant's Motion to Dismiss the Amended Complaint, dated July 13, 2021, and all pleadings, papers and proceedings previously had herein, Defendant will move this Court at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, 10007, before the Honorable Alvin K. Hellerstein, United States District Judge, at a time and date to be designated by the Court, for an Order, dismissing the Amended Complaint in its entirety pursuant to Rules 4, 5, 12(b)(1), (4), (5) and (6) of the Federal Rules of Civil Procedure on the grounds that: (1) Plaintiff settled and released all claims against the Defendant; (2) the claims are moot; (3) Plaintiff failed to exhaust his administrative remedies; (4) Plaintiff did not serve Defendant with sufficient process; and (5) Defendant did not employ the Plaintiff.

PLEASE TAKE FURTHER NOTICE that Defendant will also move this Court to reconsider its May 4, 2021 Order, pursuant to Rule 60, of the Federal Rules of Civil Procedure on the grounds that Plaintiff's ten month delay in requesting relief to serve Defendant; Plaintiff's failure to serve all Parties with his motion to reopen; and Plaintiff's conduct in filing a duplicative

action after resolving the action and releasing all Defendants warrants the Court's reconsideration of its Order granting leave to serve the Amended Complaint.

PLEASE TAKE FURTHER NOTICE that, in the event that this motion is denied, in whole or in part, Defendant respectfully requests thirty (30) days from docketing of the order denying the motion in which to answer the Amended Complaint.

Date: July 13, 2021
Melville, New York

Respectfully submitted,

s/Lisa M. Griffith

Lisa M. Griffith
Keegan B. Sapp
LITTLER MENDELSON, P.C.
290 Broadhollow Road, Suite 305
Melville, NY 11747
(631) 247-4700
lgriffith@littler.com
ksapp@littler.com

Attorneys for Defendant
666 Fifth Associates LLC

To: Jonathan Shalom (Via Federal Express, First Class Mail, and Email)
Shalom Law, PLLC
105-13 Metropolitan Avenue
Forest Hills, NY 11375
718-971-9474
Email: jonathan@shalomlawny.com

Attorney for Plaintiff
Anthony Solis